MONTANA LEGISLATIVE HISTORY

Chapter 171 1989

Bill H _____ S 49 Original bill & history ✓ C

H. Committee on Labor + Employment S. Committee on State Administration

Hearing Date(s)			Hearing Date(s)		
2-28	out	C	1-11		C
		C	1-12	out	C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

RETURNED TO SENATE
3/11 SIGNED BY PRESIDENT
3/11 SIGNED BY SPEAKER
3/13 TRANSMITTED TO GOVERNOR
3/18 SIGNED BY GOVERNOR
CHAPTER NUMBER 127 EFFECTIVE DATE: 7/01/89

SB 47 INTRODUCED BY BENGTSON, ET AL.
DELETE OPEN SEASON RESTRICTION ON MOURNING DOVES

1/03	INTRODUCED		
1/03	REFERRED TO FISH & GAME		
1/19	HEARING		
1/21	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/24	2ND READING PASSED	24	20
1/26	3RD READING FAILED	21	27

SB 48 INTRODUCED BY PIPINICH
ADD A 10-YEAR RESTRICTION ON SPECIAL HUNTING PERMITS FOLLOWING SUCCESSFUL HUNT

1/03	INTRODUCED		
1/03	REFERRED TO FISH & GAME		
1/03	FISCAL NOTE REQUESTED		
1/10	FISCAL NOTE RECEIVED		
1/10	FISCAL NOTE PRINTED		
1/17	HEARING		
2/02	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/04	2ND READING PASSED	47	0
2/07	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/21	REFERRED TO FISH & GAME		
3/07	HEARING		
3/08	COMMITTEE REPORT--BILL NOT CONCURRED		
3/09	ADVERSE COMMITTEE REPORT ADOPTED	82	9

SB 49 INTRODUCED BY RASMUSSEN
CLARIFY GROUP BENEFITS FOR SEASONAL AND TEMPORARY STATE EMPLOYEES
BY REQUEST OF DEPARTMENT OF ADMINISTRATION

1/03	INTRODUCED		
1/03	REFERRED TO STATE ADMINISTRATION		
1/11	HEARING		
1/13	COMMITTEE REPORT--BILL PASSED		
1/16	2ND READING PASSED	48	0
1/18	3RD READING PASSED	47	1
	TRANSMITTED TO HOUSE		
2/21	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
2/28	HEARING		
3/01	COMMITTEE REPORT--BILL CONCURRED		
3/06	2ND READING CONCURRED	93	0
3/07	3RD READING CONCURRED	93	0

RETURNED TO SENATE
3/13 SIGNED BY PRESIDENT
3/14 SIGNED BY SPEAKER

3/15 TRANSMITTED TO GOVERNOR
3/20 SIGNED BY GOVERNOR
CHAPTER NUMBER 171 EFFECTIVE DATE: 3/20/89

SB 50 INTRODUCED BY ECK
PROVIDE A PRORATED REFUND ON PERSONAL PROPERTY MOVED OUT-OF-STATE
BY REQUEST OF DEPARTMENT OF REVENUE

1/03 INTRODUCED
1/03 REFERRED TO TAXATION
1/03 FISCAL NOTE REQUESTED
1/09 HEARING
1/09 FISCAL NOTE RECEIVED
1/10 FISCAL NOTE PRINTED
DIED IN COMMITTEE

SB 51 INTRODUCED BY MAZUREK
STANDARDIZE CERTAIN STATE INCOME TAX FILING REQUIREMENTS WITH FEDERAL LAW
BY REQUEST OF DEPARTMENT OF REVENUE

1/03 INTRODUCED
1/03 REFERRED TO TAXATION
1/03 FISCAL NOTE REQUESTED
1/06 HEARING
1/06 COMMITTEE REPORT--BILL PASSED AS AMENDED
1/09 FISCAL NOTE RECEIVED
1/09 FISCAL NOTE PRINTED
1/10 2ND READING PASSED 49 0
1/12 3RD READING PASSED 48 0

TRANSMITTED TO HOUSE
2/21 REFERRED TO TAXATION
3/01 HEARING
3/01 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
3/04 2ND READING CONCURRED AS AMENDED 80 1
3/07 3RD READING CONCURRED 92 0

RETURNED TO SENATE WITH AMENDMENTS
3/11 2ND READING AMENDMENTS CONCURRED 45 0
3/14 3RD READING AMENDMENTS CONCURRED 49 0

3/20 SIGNED BY PRESIDENT
3/20 SIGNED BY SPEAKER
3/21 TRANSMITTED TO GOVERNOR
3/24 SIGNED BY GOVERNOR
CHAPTER NUMBER 289 EFFECTIVE DATE: 10/01/89

SB 52 INTRODUCED BY CRIPPEN
REMOVE INHERITANCE AND ESTATE TAX WARRANT OF DISTRAINT EXEMPTION
BY REQUEST OF DEPARTMENT OF REVENUE

1/03 INTRODUCED
1/03 REFERRED TO TAXATION
1/03 FISCAL NOTE REQUESTED
1/06 HEARING
1/06 COMMITTEE REPORT--BILL PASSED
1/09 FISCAL NOTE RECEIVED

SENATE BILL NO. 49

INTRODUCED BY RASMUSSEN

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

IN THE SENATE

JANUARY 3, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
JANUARY 13, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 14, 1989	PRINTING REPORT.
JANUARY 16, 1989	SECOND READING, DO PASS.
JANUARY 17, 1989	ENGROSSING REPORT.
JANUARY 18, 1989	THIRD READING, PASSED. AYES, 47; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE HOUSE

JANUARY 18, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR.
FEBRUARY 20, 1989	FIRST READING.
MARCH 1, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	PASSED CONSIDERATION FOR THE DAY.
MARCH 6, 1989	SECOND READING, CONCURRED IN.
MARCH 7, 1989	THIRD READING, CONCURRED IN. AYES, 93; NOES, 0.
	RETURNED TO HOUSE.

IN THE SENATE

MARCH 8, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 49

INTRODUCED BY RASMUSSEN

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT SEASONAL AND TEMPORARY PART-TIME STATE EMPLOYEES WHO REGULARLY WORK LESS THAN 20 HOURS A WEEK ARE NOT ELIGIBLE FOR THE STATE GROUP BENEFITS PLAN; AMENDING SECTIONS 2-18-701 AND 2-18-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-18-701, MCA, is amended to read:

"**2-18-701. Definitions.** In this part, as it applies to a person employed in the executive, judicial, or legislative branches of state government, "employee" means:

(1) a permanent full-time employee ~~defined~~, as provided in 2-18-601;

(2) a ~~part-time~~ permanent part-time employee, as ~~defined~~ provided in 2-18-601, who is regularly scheduled to work ~~a regular schedule of~~ 20 hours or more a week;

(3) a seasonal full-time employee, as ~~defined~~ provided in 2-18-601, who is regularly scheduled to work 6 months or more a year or who works for a continuous period of more than 6 months a year although not regularly scheduled to do so;

(4) a seasonal part-time employee, as provided in 2-18-601, who is regularly scheduled to work 20 hours or more a week for 6 months or more a year or who works 20 hours or more a week for a continuous period of more than 6 months a year although not regularly scheduled to do so;

~~(4)~~(5) elected officials;

~~(5)~~(6) officers and permanent employees of the legislative branch;

~~(6)~~(7) judges and permanent employees of the judicial branch;

~~(7)~~(8) academic, professional, and administrative personnel having individual contracts under the authority of the board of regents of higher education or the state board of public education; ~~and~~

~~(8)~~(9) a temporary full-time ~~employees~~ employee, as ~~defined~~ provided in 2-18-601:

(a) who ~~are~~ is regularly scheduled to work more than 6 months a year; ~~or~~

(b) who ~~work~~ works for a continuous period of more than 6 months a year although not regularly scheduled to do so; or

(c) whose temporary status is defined through collective bargaining; and

(10) a temporary part-time employee, as provided in

INTRODUCED BILL
SB 49

2-18-601:

(a) who is regularly scheduled to work 20 hours or more a week for 6 months or more a year;

(b) who works 20 hours or more a week for a continuous period of more than 6 months a year although not regularly scheduled to do so; or

(c) whose temporary status is defined through collective bargaining."

Section 2. Section 2-18-703, MCA, is amended to read:

"**2-18-703. Contributions.** (1) Each agency, as defined in 2-18-601, shall contribute the amount specified in this section towards the group benefits cost.

(2) For employees defined in 2-18-701, other than members of collective bargaining units, and for members of the legislature, the employer contribution for group benefits shall be $115 per month for the fiscal years ending June 30, 1988, and June 30, 1989, and $115 per month for each fiscal year thereafter. Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution as wages. A portion of the employer contribution for group benefits may be applied to an employee's costs for

participation in Part B of medicare under Title XVIII of the Social Security Act of 1965, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school districts and of local government units, the employer's premium contributions may exceed but may not be less than $10 per month.

(4) Unused employer contributions for any state employee shall be transferred to an account established for this purpose by the department of administration and upon such transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member."

Section 3. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 4. Effective date. [This act] is effective on passage and approval.

-End-

Form CS-32
Rev. 1985

STATUS SHEET

51st LEGISLATIVE SESSION

STATE ADMINISTRATION COMMITTEE

Page 1

BILL NUMBER	ENTERED COM. DATE	DATE CONSIDERED	EXEC. ACTION DATE OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CONCURRED IN DATE	BE NOT CONCURRED IN DATE	BE CONCURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
SB9	1/3/89	1/4/89	1/9/89		1/9/89						(S) ST. AD
SB11	1/3/89	1/6/89	1/9/89	1/9/89							EFF. DATE
SB19 T	1/3/89	1/6/89	~~1/9/89~~	~~1/9/89~~	reported in error - SB19 re-entered				1/11/89 - see page		2X
SB25 T	1/3/89	TABLED BY SPONSOR									WITHDRAWN BY SPONSOR
SB38	1/3/89	1/9/89	1/9/89			1/9/89					EFF. DATE
SB41	1/3/89	1/6/89	1/9/89			1/9/89					EFF.
SB58	1/4/89	1/10/89	1/10/89	1/10/89							EFF.
SB60	1/4/89	1/10/89	1/10/89			1/10/89					EFF.
SB49	1/3/89	1/11/89	1/12/89	1/12/89							EFF.
SB75	1/6/89	1/11/89	1/12/89	1/12/89							EFF.
SB 82 T	1/9/89	1/12/89 FN	1/17/89	1/17/89	Rescinded Committee			1/9/89	- see Page 3		X
SB 86	1/10/89	1/12/89	1/17/89	1/17/89							KILLED (L) ST. AD
SB 88	1/10/89	1/12/89	1/24/89	1/24/89							DO PASS
SB 91	1/11/89	1/16/89 FN	1/18/89			1/18/89					GV 4/17

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

SENATE BILLS

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on January 11, 1989, at 10:00 a.m.

ROLL CALL

Members Present:	Chairman William E. Farrell Senator Hubert Abrams Senator John Anderson, Jr. Senator Esther Bengtson Senator Sam Hofman Senator Paul Rapp-Svrcek Senator Tom Rasmussen Senator Eleanor Vaughn
Members Excused:	Senator Ethel Harding
Members Absent:	None
Staff Present:	Eddye McClure

HEARING ON SB 49

Presentation and Opening Statement by Sponsor:

Senator Tom Rasmussen reported that SB 49 deals with an issue concerning seasonal and temporary employees relating to their benefits. This bill was requested by the Department of Administration, and Senator Rasmussen indicated he would like to call on Laurie Ekanger from the Department of Administration.

List of Testifying Proponents and What Group they Represent:

Laurie Ekanger, Administrator, State Personnel Division
Tom Schneider, Executive Director, Montana Public Employees Association and member, Employee Benefits Council

List of Testifying Opponents and What Group They Represent:

None.

Testimony:

Ms. Ekanger reported that the State Personnel Division asked for this law change on advice of their legal council. The department's practice has been to treat all seasonal and temporary employees the same as permanent employees. Currently, in order for a permanent part-time employee to receive the state share toward their health insurance benefit contribution, and to a member of the state benefit plan, they are required to work at least 20 hours per week. Seasonal, temporary and intermittent employees have been treated the same way. Sometime in the last year, the question was raised by some seasonal intermittent employees, who worked less than 20 hours per week, indicating the law is not specific about seasonal employees. They cited that there did not appear to be a requirement that they work 20 hours, and they asked to be considered for their share of the state contribution and be put on the benefit plan. Ms. Ekanger noted that the department does not believe the intent of the law is to, and there practice has not been to treat seasonal and intermittent and temporary employees better than permanent employees, in giving them benefits for working fewer hours than the permanent part-time employees. Ms. Ekanger indicated paragraph 2 in Section 1 describes eligibility for permanent part-time employees, and noted that language has been essentially duplicated in paragraph 3 for seasonal full-time employees. She further noted paragraph 4 has been added for seasonal part-time employees, and paragraph 9 has similar language for temporary full-time employees. In addition, Section 2 clarifies that part-time, temporary, seasonal employees should be treated the same, for the purposes of benefits eligibility.

Ms. Ekanger indicated this bill is to prevent legal challenges in expanding eligibility under the benefit plan, and she urged the committee to pass SB 49.

Mr. Tom Schneider indicated he would like to go on record in support of SB 49.

Questions From Committee Members:

Q. Senator Bengtson asked if there has been a lot of controversy from people wanting to collect benefits, or be on the benefit plan.

A. Ms. Ekanger responded there has not been a legal challenge to date, but some people have asked the question and pressed the issue. She further indicated she did not know how many people this would affect, but it could be as many a couple of hundred. She noted that the purpose of this bill is to prevent any kind of controversy.

Chairman Farrell announced the hearing on SB 49 as closed.

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE: January 11, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTSON	✓		
WILLIAM E. FARRELL	✓		
ETHEL HARDING			✓
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK	✓		
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

SENATE STATE ADMIN.
EXHIBIT NO. 1
DATE 1/11/89
BILL NO. SB49

PD 1/89

Department of Administration

TESTIMONY IN FAVOR OF SB 49

I. PURPOSE OF THE ACT

Current practice is to treat seasonal and temporary employees exactly the same as permanent employees for group benefits. All state employees who are regularly scheduled to work at least 20 hours per week are eligible for state group benefits and the state's contribution toward the cost of those benefits. The law is very clear and specific about this 20 hour criteria for permanent part-time employees. However, the law is silent on work hours for seasonal and temporary employees. This bill will clarify the law to insure that temporary and seasonal employees receive the same and no more benefits than permanent employees.

II. WHY IS THIS CHANGE IN LAW NECESSARY?

The bill will eliminate the basis for court challenge to the eligibility criteria for group insurance benefits and state contribution. Presently, seasonal and temporary employees working less than 20 hours a week could attempt to demand full benefits. This would provide sporadic or short term employees of the state better benefits than permanent employees, and result in permanent employees demanding equal treatment. Such challenges if successful, would dramatically increase the state's costs for group insurance.

III. SUMMARY

This bill will clarify statute in favor of existing practice and thereby discourage legal challenges. No benefits are gained or lost by passage of this bill.

For more information, please call Laurie Ekanger or Rod Sundsted, State Personnel Division, 444-3871.

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

DATE: January 11, 1989

NAME	REPRESENTING	BILL #	Support	Oppose
Brenda Nordlund	MT Women's Lobby	observe		
Tom Schneider	MPEA	SB 49, 75	X	
Laurie Ekanger	Dept of Adm	SB 49, 75	X	
MS Davis	LWV/MT observe			

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on January 12, 1989, at 10:00 a.m.

ROLL CALL

Members Present: Chairman William E. Farrell
Senator Hubert Abrams
Senator John Anderson, Jr.
Senator Esther Bengtson
Senator Ethel Harding
Senator Sam Hofman
Senator Paul Rapp-Svrcek
Senator Tom Rasmussen
Senator Eleanor Vaughn

Members Excused: None

Members Absent: None

Staff Present: Eddye McClure

HEARING ON SB 82

Presentation and Opening Statement by Sponsor:

Senator Dennis Nathe indicated that SB82 is requesting that the Wheat and Barley Committee bureau chief position be exempted from the State Pay Plan. Senator Nathe indicated that, in surrounding states, the lowest paid person in a similar position receives $11,000 higher than this position. Senator Nathe indicated the Committee is asking for this authority so that if, in the future, the need arises to hire someone new for that position, they have the flexibility to go out in the marketplace and hire competent, qualified people. He stated being locked into the State Pay Plan at the bureau chief level is a problem. Senator Nathe noted that this position may be referred to as the Executive Vice President. He explained there are 2 titles because trade delegations from the Orient do not like to deal with bureau chiefs. It is a matter of how they perceive who their delegations are dealing with, and the title that this position carries within the organization is Executive Vice President. The pay, however, is set at the bureau chief level. The Committee would like to see this position exempted from the State Pay Plan to give the board the power to set that salary accordingly. Senator Nathe reported that this would not

further stated he does not think it is a deterrent. Most of these people are already practicing in Montana, but feel they need the protection of the licensure procedure.

Q. Senator Hofman asked if the auditors were so busy there was no way they could do these reviews without hiring new people.

A. Mr. Seacat responded that is correct and the type of work that is envisioned requires a substantial amount of work by their office. It could be done on a first-come-first-served basis, but there is no way they could do 14 at this time, as they do not have the people.

Q. Chairman Farrell referred to the question of a possible constitutional problem with the fee, and asked Ms. McClure to respond.

A. Ms. McClure indicated she has done some research with a consultant in Illinois and Michigan who has done a study. She indicated licensing has always been a prerogative of the state, as long as the fee is rational and tied to something. She noted that, regarding this bill, there is a fiscal note from the auditor's office attached.

Q. Chairman Farrell asked Senator Rasmussen if the date included in the bill was correct.

A. Senator Rasmussen responded it is.

Closing by Sponsor:

Senator Rasmussen indicated he appreciates the intentions of the sponsors of this bill and, at the time, it seemed like a logical thing to do. He further indicated that he now sees it as a subversion of the legislative process in that we have segregated out one of the legislative processes. He asked, if we do that with the licensing boards, why not others. Senator Rasmussen suggested this is the wrong solution to the problem, and we need to work around that. The old system is the system we need to be under. The Legislature needs to decide.

OTHER BUSINESS

Chairman Farrell asked the committee to take executive action on SB49 and SB75.

Senator Rasmussen moved that SB49 do pass. Senator Bengtson raised the question that SB49 deals with a fear of the unknown. Senator Rasmussen responded that this bill is a

result of the pay freeze and possible loop holes. He indicated he thinks it is prudent to clear up the loop holes.

Recommendation and Vote:

Motion passed that SB49 do pass.

Senator Bengtson moved that SB 75 do pass.

Recommendation and Vote:

Motion passed that SB75 do pass.

ADJOURNMENT

Adjournment At: 11:35 a.m.

William E. Farrell
WILLIAM E. FARRELL, Chairman

WEF/mhu
SB82.112

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE: January 12, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTSON	✓		
WILLIAM E. FARRELL	✓		
ETHEL HARDING	✓		
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK	✓		
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

STANDING COMMITTEE REPORT

January 12, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration SB 49 (first reading copy -- white), respectfully report that SB 49 do pass.

DO PASS

Signed: _____

William E. Farrell, Chairman

scrsb49.112

Form CS-32
Rev. 1985

STATUS SHEET

51st LEGISLATIVE SESSION

HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

Senate

BILL NUMBER	ENTERED COM. DATE	DATE CONSIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CONCURRED IN DATE	BE NOT CONCURRED IN DATE	BE CONCURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
SB 49	2/21	2/28/89 ✓						2/28/89			
" 127	"	✓ 3/2	Tabled ✓ 3/2								
" 153	2/21	2/28 ✓								2/28	
" 156	"	✓ 3/7						✓ 3/7			
" 159	"	✓ "						✓ 3/7			
" 160	"	✓ "	Held							✓ 3/14	
~~" 165~~	3/14	~~✓ 3-21-89~~	Tabled 3-22-89								
" 186	"	✓ 3/7	Tabled 3-14 ✓								
" 202	"	✓ 3/9	Tabled ✓ 3/9								
"218	"	✓ "						✓ 3/9			
" 235	2/22	✓ 3/21	Tabled on 3-22-89								
" 255	2/21	✓ 3/16	Tabled on 3/20/89								
" 276	"	✓ 3/9								✓ 3/9	
" 278	2/22	✓ "						✓ 3/9			
" 285	2/21	3/14									

se a separate sheet for Senate Bills, House Bills, and Resolutions.

D

SENATE BILL NO. 49

INTRODUCED BY RASMUSSEN

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT SEASONAL AND TEMPORARY PART-TIME STATE EMPLOYEES WHO REGULARLY WORK LESS THAN 20 HOURS A WEEK ARE NOT ELIGIBLE FOR THE STATE GROUP BENEFITS PLAN; AMENDING SECTIONS 2-18-701 AND 2-18-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-18-701, MCA, is amended to read:

"**2-18-701. Definitions.** In this part, as it applies to a person employed in the executive, judicial, or legislative branches of state government, "employee" means:

(1) a permanent full-time employee ~~defined~~, as provided in 2-18-601;

(2) a ~~part-time~~ permanent part-time employee, as ~~defined~~ provided in 2-18-601, who is regularly scheduled to work ~~a regular schedule of~~ 20 hours or more a week;

(3) a seasonal full-time employee, as ~~defined~~ provided in 2-18-601, who is regularly scheduled to work 6 months or more a year or who works for a continuous period of more than 6 months a year although not regularly scheduled to do so;

(4) a seasonal part-time employee, as provided in 2-18-601, who is regularly scheduled to work 20 hours or more a week for 6 months or more a year or who works 20 hours or more a week for a continuous period of more than 6 months a year although not regularly scheduled to do so;

~~(4)~~(5) elected officials;

~~(5)~~(6) officers and permanent employees of the legislative branch;

~~(6)~~(7) judges and permanent employees of the judicial branch;

~~(7)~~(8) academic, professional, and administrative personnel having individual contracts under the authority of the board of regents of higher education or the state board of public education; ~~and~~

~~(8)~~(9) a temporary full-time ~~employees~~ employee, as ~~defined~~ provided in 2-18-601:

(a) who ~~are~~ is regularly scheduled to work more than 6 months a year; ~~or~~

(b) who ~~work~~ works for a continuous period of more than 6 months a year although not regularly scheduled to do so; or

(c) whose temporary status is defined through collective bargaining; and

(10) a temporary part-time employee, as provided in

2-18-601:

(a) who is regularly scheduled to work 20 hours or more a week for 6 months or more a year;

(b) who works 20 hours or more a week for a continuous period of more than 6 months a year although not regularly scheduled to do so; or

(c) whose temporary status is defined through collective bargaining."

Section 2. Section 2-18-703, MCA, is amended to read:

"**2-18-703. Contributions.** (1) Each agency, as defined in 2-18-601, shall contribute the amount specified in this section towards the group benefits cost.

(2) For employees defined in 2-18-701, other than members of collective bargaining units, and for members of the legislature, the employer contribution for group benefits shall be $115 per month for the fiscal years ending June 30, 1988, and June 30, 1989, and $115 per month for each fiscal year thereafter. Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution as wages. A portion of the employer contribution for group benefits may be applied to an employee's costs for

participation in Part B of medicare under Title XVIII of the Social Security Act of 1965, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school districts and of local government units, the employer's premium contributions may exceed but may not be less than $10 per month.

(4) Unused employer contributions for any state employee shall be transferred to an account established for this purpose by the department of administration and upon such transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member."

Section 3. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 4. Effective date. [This act] is effective on passage and approval.

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

Call to Order: By Chairman Russell, on February 28, 1989, at 3:00 P.M.

ROLL CALL

Members Present: Fourteen.

Members Excused: None.

Members Absent: Glaser and Thomas.

Staff Present: Eddye McClure, Staff Attorney

Announcements/Discussion: We are looking at 30 bills at the maximum, so it looks like we will be hearing about 3 bills per day. We'll take as many as we can per day and try to act on them, some we may have to hold for awhile, and I think those will be pretty obvious as we hear them.

So the first bill we are going to be hearing is SB 49.

HEARING ON SB 49

Presentation and Opening Statement by Sponsor:

SEN. RASMUSSEN: SB 49 is a bill that was requested by the Department of Administration to cover a problem they can foresee in the laws relating to temporary and seasonal employees. There seems to be kind of a loophole as the law reads now and it relates to the hours per week that a temporary or seasonal employee works. The intent of the current policy is that you have to work 20 hours per week to receive the state benefits. The language is a little unclear in that area, so this bill is an attempt to clear the language up. We have at least one proponent who is from the Department of Administration.

Testifying Proponents and Who They Represent:

JOYCE BROWN, Department of Administration.

Proponent Testimony:

JOYCE BROWN, proponent. The reason we requested this bill is to clarify what state employees are eligible for benefits. State statutes provide that the permanent employees who work 20 hours or more per week are eligible but they are silent on the question of how many hours per week seasonal and

temporary employees must work in order to be eligible. We have always interpreted it to mean that they must work 20 hours as well, so this would not change the status of any existing employees. It simply codifies what we have interpreted the statute to mean and eliminates the ambiguity so we would foreclose the possibility of a challenge by seasonal or temporary employees. This could be expensive not because we have a lot of seasonal or temporary employees, but because if the seasonal and temporary employees who work less than 20 hours per week gain benefits, then permanent employees who work less than 20 hours per week are also going to want those benefits.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members:

COCCHIARELLA: Question for Joyce Brown. Are you saying that this is just clarifying something -- we don't, as a state, pay these people benefits now in any of these situations?

BROWN: That's correct.

DRISCOLL: Question for Joyce Brown. On page 1, sub (3), lines 23 through 25, "a seasonal or part-time employee who is scheduled to work six months or more, or who works a continuous period of more than six months, although not regularly scheduled to do so" -- what does that mean, not regularly scheduled to do so -- they wouldn't get benefits?

BROWN: If it is unclear what the schedule is, sometimes when employees are hired it is not clear how long they will be working. Maybe they are hired for two or three months and the job expands, so that language says if they are actually on the job for six months they get benefits at the point when they have been working for six months, even though it wasn't necessarily management's intent that the job be for six months. It is sort of an added definition of what it means to be regularly scheduled to work for six months or more.

DRISCOLL: Why do we need on line 23 "regularly," why can't we say "who is scheduled?"

BROWN: We use regularly in order to avoid the problem of fluctuation in work schedules. Sometimes employees will be scheduled to work additional hours when there is a crunch in work load and "regularly scheduled" allows us to simply apply the normal schedule rather than an abnormal temporary

schedule.

DRISCOLL: On line 23 it doesn't talk about hours, it says "who is regularly scheduled to work six months or more." Present law says "is scheduled to work for six months." So if you said you are going to be regularly scheduled for five months, and with this law you could say, yea you worked seven months but you weren't regularly scheduled to work seven. Page 1, line 23, "regularly scheduled" to work six months.

BROWN: It says "... or who works for a continuous period of more than six months," so if you work more than the six months you are automatically eligible as soon as you have completed your six-month period. That is why that was added to make that clear.

SIMPKINS: To follow up on Jerry's question. Is this meaning that if the person is hired and they know they are going to be hired for six months they will be eligible for benefits before that six-month period has elapsed?

BROWN: That is correct. That is the way it is administered currently. If management says this is a nine-month job and they are hired for a nine-month position they are eligible for benefits from the day they are hired. If management says this is a three-month job and it grows into a nine-month job, they are eligible for benefits as soon as they have worked six months.

RUSSELL: Question of Brown. Do we have any idea what numbers of employees we are talking about that this will effect?

BROWN: It will not effect any employees because none of the seasonal or temporaries have been given benefits who worked less than 20 hours per week at this point. We have always interpreted the statute to mean what we are trying to clarify it to say, so it won't change benefits for any employees who currently exist. We want to get it codified so there isn't a challenge to the way we are interpreting it, if that is correct.

Closing by Sponsor:

RASMUSSEN: I think Ms. Brown really did summarize what this bill is trying to do. It isn't going to affect anybody and it doesn't affect current practice, but it prevents possible confusion and possible litigation down the road if somebody should challenge this.

- - - - - - - -

STRONG: That's not what Workers' Comp told me.

The last two years I have employed a cook who furnishes his own cooking equipment, his own tent, and he supplies the food and I pay him a flat rate for doing this, but I still pay workers' comp. I pay him $5,000 to supply the food and I don't tell him when to cook and I don't tell him how to cook, he does his own thing. They still say he is an employee, but he has furnished it all.

RUSSELL: Any further questions from the committee?

None.

Closing by Sponsor:

RASMUSSEN: I think these people that Mr. Strong was questioned about were clearly employees so we are not dealing with them in this bill. We are dealing with those types of people who are totally independent and have all their own equipment, so we are just attempting to draw the line between those two categories. I think right now the line is blurred since this decision so I think this is all this bill does.

RUSSELL: Sen. Rasmussen, who will be carrying your bills in the House, both 49 and 153.

RASMUSSEN: I don't have anybody yet, so if you care to pick somebody from the committee, or if you want me to, I can get someone.

RUSSELL: This closes the hearing on SB 153.

- - - - - - - - -

DISPOSITION OF SB 49

Motion:

REP. SMITH: I move we CONCUR IN SB 49.

Discussion:

SIMPKINS: Question of Driscoll. The way I understand the question on this SB 49 is if the employee is regularly scheduled for six months or longer, the benefits have to start right now upon employment, but they are saying that if they thought the job was only going to be four months or something like this and all of a sudden they see a prolonged situation and they go beyond the six months, then the benefits would start at six months.

DRISCOLL: That's the way they do it now.

DRISCOLL: My problem is why do they need "regularly" on page 1, line 20? Presently it says a "part-time employee who is scheduled to work a regular schedule of 20 hours or more a week." To me that is clearer, "regular schedule," then when it says "who is regularly scheduled." There is a difference there, at least the way I read it, the management can play games with your schedule and the other way if you have a regular schedule of 20 hours, but if you missed a day you were still scheduled. I don't understand the whole bill. They don't provide benefits to temporary employees now. I don't know what it does to tell you the truth.

SMITH: It looks to me like they are merely clarifying what they have been doing all along.

COCCHIARELLA: Question of Eddye McClure. On page 1, lines 20 and 23, the use of the term "regularly scheduled" could that be interpreted differently from "who has a regular schedule".

McCLURE: Anything is possible. It would be a guess on my part, but "regularly scheduled" means routinely. I guess it means not haphazardly.

Vote:

RUSSELL: We have a motion on the floor DO CONCUR.

15 DO CONCUR votes, one against it (McCormick).

Do we have any volunteers as to who wants to carry this bill in the House?

Rep. Lee volunteered to carry this bill, SB 49.

- - - - - - - -

DISPOSITION OF SB 153

Motion:

RICE: I move we CONCUR ON SB 153.

I also move the amendments.

Discussion:

KILPATRICK: Am I right in assuming that what this does is that it makes him an independent contractor now?

O'KEEFE: It makes them eligible for being classified as independent contractors by workers' comp. It doesn't automatically make them an independent contractor. It defines a test that they must meet to qualify as an

DAILY ROLL CALL

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2-28-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Angela Russell, Chairman	✓		
Rep. Lloyd "Mac" McCormick,VC	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Duane Compton	✓		
Rep. Jerry Driscoll	✓		
Rep. Bob Pavlovich	✓		
Rep. Bill Glaser		✓	
Rep. Tom Kilpatrick	✓		
Rep. Thomas Lee	✓		
Rep. Mark O'Keefe	✓		
Rep. Jim Rice	✓		
Rep. Richard Simpkins	✓		
Rep. Clyde Smith			
Rep. Carolyn Squires	✓		
Rep. Fred Thomas		✓	
Rep. Timothy Whalen	✓		

CS-30

VISITORS' REGISTER

HOUSE LABOR AND EMPLOYMENT / RELATIONS COMMITTEE

BILL NO. SB 49 DATE 2/28/89

SPONSOR Rasmussen

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Joyce Brown	Dept. of Admin	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

28

3/1/89 12:55 SH

STANDING COMMITTEE REPORT

March 1, 1989

Mr. Speaker: We, the committee on Labor report that SENATE BILL 49 (blue reference copy) be concurred in .

Signed: Angela Russell
Angela Russell, Chairman

[REP. LEE WILL CARRY THIS BILL ON THE HOUSE FLOOR]

BV

SB 0049/02

SENATE BILL NO. 49

INTRODUCED BY RASMUSSEN

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT SEASONAL AND TEMPORARY PART-TIME STATE EMPLOYEES WHO REGULARLY WORK LESS THAN 20 HOURS A WEEK ARE NOT ELIGIBLE FOR THE STATE GROUP BENEFITS PLAN; AMENDING SECTIONS 2-18-701 AND 2-18-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-18-701, MCA, is amended to read:

"2-18-701. **Definitions.** In this part, as it applies to a person employed in the executive, judicial, or legislative branches of state government, "employee" means:

(1) a permanent full-time employee ~~defined~~, as provided in 2-18-601;

(2) a ~~part-time~~ permanent part-time employee, as ~~defined~~ provided in 2-18-601, who is regularly scheduled to work ~~a regular schedule of~~ 20 hours or more a week;

(3) a seasonal full-time employee, as ~~defined~~ provided in 2-18-601, who is regularly scheduled to work 6 months or more a year or who works for a continuous period of more than 6 months a year although not regularly scheduled to do so;

(4) a seasonal part-time employee, as provided in 2-18-601, who is regularly scheduled to work 20 hours or more a week for 6 months or more a year or who works 20 hours or more a week for a continuous period of more than 6 months a year although not regularly scheduled to do so;

~~(4)~~(5) elected officials;

~~(5)~~(6) officers and permanent employees of the legislative branch;

~~(6)~~(7) judges and permanent employees of the judicial branch;

~~(7)~~(8) academic, professional, and administrative personnel having individual contracts under the authority of the board of regents of higher education or the state board of public education; ~~and~~

~~(8)~~(9) a temporary full-time ~~employees~~ employee, as ~~defined~~ provided in 2-18-601:

(a) who ~~are~~ is regularly scheduled to work more than 6 months a year; ~~or~~

(b) who ~~work~~ works for a continuous period of more than 6 months a year although not regularly scheduled to do so; or

(c) whose temporary status is defined through collective bargaining; and

(10) a temporary part-time employee, as provided in

2-18-601:

(a) who is regularly scheduled to work 20 hours or more a week for 6 months or more a year;

(b) who works 20 hours or more a week for a continuous period of more than 6 months a year although not regularly scheduled to do so; or

(c) whose temporary status is defined through collective bargaining."

Section 2. Section 2-18-703, MCA, is amended to read:

"**2-18-703.** Contributions. (1) Each agency, as defined in 2-18-601, shall contribute the amount specified in this section towards the group benefits cost.

(2) For employees defined in 2-18-701, other than members of collective bargaining units, and for members of the legislature, the employer contribution for group benefits shall be $115 per month for the fiscal years ending June 30, 1988, and June 30, 1989, and $115 per month for each fiscal year thereafter. Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution as wages. A portion of the employer contribution for group benefits may be applied to an employee's costs for

participation in Part B of medicare under Title XVIII of the Social Security Act of 1965, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school districts and of local government units, the employer's premium contributions may exceed but may not be less than $10 per month.

(4) Unused employer contributions for any state employee shall be transferred to an account established for this purpose by the department of administration and upon such transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member."

NEW SECTION. **Section 3.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 4.** Effective date. [This act] is effective on passage and approval.

-End-